

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CHAPIN MANUFACTURING, INC.,

Plaintiff,

v.

Hon. Hugh B. Scott

06CV354A

Order

SOLO INCORPORATED,

Defendant.

Before the Court is the motion of putative defendant counter-claimant US Sprayer Holding Co., L.L.C. ("US Sprayer"), to intervene in this action (Docket No. 33), filed by defendant Solo Incorporated. Responses to this motion were due by August 17, 2007 (Docket No. 36), and, in general, plaintiff does not oppose this motion (Docket No. 37, Pl. Atty. Decl.).

US Sprayer argues that, effective March 16, 2007, it acquired the rights, title, and interest in patent and trademark rights for Solo's product at issue in this case (Docket No. 33, Longfield Aff. ¶¶ 3-5)¹. US Sprayer's moving papers include a proposed Answer and Counterclaims (id. Bloomberg Affirm. Ex.), and US Sprayer seeks to intervene either under Federal Rule of Civil Procedure 24(a) as of right or under Rule 24(b) as a permissive intervention (see Docket No. 32, US Sprayer Memo. at 3).

The motion to intervene (Docket No. 33) is **granted**. US Sprayer has five (5) business days to file and serve the Answer and Counterclaims similar to the proposed pleading attached to

¹Plaintiff reserves the right to challenge on the merits US Sprayer's claim of ownership and standing to assert its counterclaims, Docket No. 37, Pl. Atty. Decl. ¶ 2.

its moving papers (see Docket No. 33, Bloomberg Affirm. Ex.). Plaintiff shall reply to this counterclaims within the time prescribed by the rules, see Fed. R. Civ. P. 12(a)(2).

So Ordered.

/s/ Hugh B. Scott
Honorable Hugh B. Scott
United States Magistrate Judge

Dated: Buffalo, New York
August 20, 2007